

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 355 Department or Agency: Alabama Department of Finance-  
Construction Management Division

Rule No. 355-16-1

Rule Title: Collection of User Fees

New	X	Amend	Repeal	Adopt by Reference
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Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public?

No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? Yes-Minimal

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer *Frank James*

Date 9/19/2019

REC'D & FILED

SEP 19 2019

LEGISLATIVE SVC AGENCY

(DATE FILED)  
(STAMP)

APA-2

**Alabama Department of Finance  
Construction Management Division**

**NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Department of Finance, Division of  
Construction Management

RULE NO. & TITLE: 355-16-1 Collection of User Fees

INTENDED ACTION: Amendment

SUBSTANCE OF PROPOSED ACTION: The Division of Construction Management proposes to amend this rule to further clarify each fee for more accurate guidance for taxpayers; to add an optional 65% Intermediate plan review fee and a \$200.00 fee for 2<sup>nd</sup> revised reviews for contract documents; and to give instructions for electronic payment of all fees.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their view in writing to the Department of Finance, Division of Construction Management 770 Washington Avenue, Suite 444, P.O. Box 301150, Montgomery, AL 36130-1150. A public hearing will be held only upon request. A written request shall be submitted to the agency contact person listed below.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: The Department of Finance, Division of Construction Management will accept comments no later than November 4, 2019 at 5 p.m.

CONTACT PERSON AT AGENCY: Frank Barnes, Department of Finance, P.O. Box 301150, Montgomery, AL 36130-1150, Phone 334-242-4082 or frank.barnes@bc.alabama.gov.



Frank Barnes, Director  
Alabama Department of Finance  
Division of Construction Management

ALABAMA DEPARTMENT OF FINANCE  
CONSTRUCTION MANAGEMENT DIVISION  
ADMINISTRATIVE CODE

CHAPTER 355-16-1  
COLLECTION OF USER FEES

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~~NOTE: The State of Alabama Building Commission by resolution dated August 1, 1995, authorized the Director of the Building Commission Technical Staff to repeal immediately the procedure of charging and collecting user fees for its services. An emergency amendment repealing the rule was filed with the Legislative Reference Service August 1, 1995, to become effective August 1, 1995. The emergency rule was adopted on a permanent basis and notice was published in Volume XIII Issue No. 11, dated August 31, 1995, of the Alabama Administrative Monthly.~~

**355-16-1-.01 Applicability.** The following procedures and user fees are applicable to new construction, additions, or alteration projects for buildings under the jurisdiction of the Alabama Building Commission Division of Construction Management as defined by the Code of Ala. 1975, Title 41, Section 41-9-162 and authorized by Sections 41-9-141(a)(8) and 41-9-142(b) Section 41-4-400(a)(7). These rules apply to projects having the first or final project submittal received for review by the Building Commission on or after October 1, 2014 and projects bid after October 1, 2014. Projects reviewed prior to October 1, 2014 but bid after October 1, 2014 shall only be required to pay the permit fee. The contract document administration fee shall apply to contract documents requiring the ~~Building Commission's approval submitted for approval after October 1, 2014.~~

## Chapter 355-16-1

## Finance

**Author:** Frank Barnes**Statutory Authority:** Code of Ala. 1975, §41-4-400(a)(7).**History: New Rule:** Filed October 27, 1994; effective December 1, 1994.**Repealed:** Filed October 12, 1995; effective November 16, 1995.**New Rule:** Filed August 7, 2014; effective September 11, 2014. **Amended:** Filed September 19, 2019; effective \_\_\_\_\_.

355-16-1-.02

Calculation Of Basic Plan Review and Permit Fees.

<del>Total Valuation-</del> Construction Cost	Basic Plan Review Fee	Basic Permit Fee
Less than \$1000	No fee.	No fee, unless inspection required, in which case a \$15.00 fee for each inspection shall be charged.
\$1,001 to \$50,000	One-half of the permit fee which is \$15.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.	\$15.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.
\$50,001 to \$100,000	One-half of the permit fee which is \$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.	\$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,001 to \$500,000	One-half of the permit fee which is \$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00.	\$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00.
\$500,001 and up	One-half of the permit fee which is \$1,660.00 for the first \$500,000.00 plus \$2.00 for each additional	\$1,660.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

	thousand or fraction thereof.	
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~~The total valuation of work shall be the cost of construction.~~  
Construction Cost: The "cost of construction" Construction Cost shall include the cost of the actual building construction, addition, or alteration work, including sitework.

**Author:** Katherine Lynn and Frank Barnes

**Statutory Authority:** Code of Ala. 1975, §41-4-400(a)(7).

**History: New Rule:** Filed October 27, 1994; effective

December 1, 1994. **Repealed:** Filed October 12, 1995; effective

November 16, 1995. **New Rule:** Filed August 7, 2014; effective

September 11, 2014.

### 355-16-1-.03 Fees Required.

(1) The Basic Plan Review Fee, the Basic Permit Fee, and the Basic Contract Document Administration Fee are subject to the Final Reconciliation at the close of construction as described in Rule 355-16-1-.05.

(2) Basic Plan Review Fee: This fee includes review of Schematic, Preliminary, Final, and one revised Final Plan Submittal.

~~(1) Initial Fee: The first submittal of each new project shall be accompanied by ½ of the plan review fee not to exceed \$500.00. Submittals sent in without this initial fee will not be reviewed until the fee payment is received.~~

(a) If the first submittal of a new project is for a schematic or preliminary review, it shall be accompanied by ½ of the Basic Plan Review Fee not to exceed \$500. Submittals sent in without this fee will not be reviewed until payment is received.

~~(2)(b) Final Submittal Approval Fee: The final submittal of each project shall be accompanied by a payment for the balance of the total plan review fee payment Basic Plan Review Fee. Submittals sent in without this final submittal fee will not be reviewed until the fee payment is received. The following conditions apply:~~

~~(a)(c) Written final plan review comments must be sent by the Building Commission Division of Construction Management to the architect within 30 calendar days of receipt of the submittal. If the submittal is not reviewed within this time limitation, the balance of the Final Submittal Approval Basic Plan Review Fee is waived.~~

~~(3) Permit Fee: Upon approval of the construction contract and prior to scheduling the Pre-Construction conference to be performed by the Building Commission Inspector, payment shall be due~~

~~immediately for the total permit fee. The following conditions apply:~~

~~(a) The Pre-Construction conference will not be performed prior to receipt of the Permit Fee.~~

~~(4) Reviews and Inspections Covered by Fees: The Final Submittal Approval Fee shall include review of schematic, preliminary, final, and one revised final submittals. The Permit Fee shall include the following building inspections: Pre-Construction Conference, Pre-Roofing Conference, Above-Ceiling Inspection, Final Inspection and Year-End Inspection. Additional required inspections such as fire alarm inspections, kitchen hood inspections, elevator inspections and other such inspections shall be included as part of the Permit Fee.~~

(3) Basic Permit Fee: This fee shall include the following required major building inspections: Pre-Construction Conference, Pre-Roofing Conference, Above-Ceiling Inspection, Final Inspection, and Year-End Inspection. Additional required inspections such as fire alarm inspections, kitchen hood inspections, elevator inspections, and other such inspections shall be included as part of the Basic Permit Fee.

(a) The Basic Permit Fee is due upon approval or receipt of the Construction Contract. The Pre-Construction Conference will not be performed prior to receipt of the Basic Permit Fee.

(4) Basic Contract Document Administration Fee: The Basic Contract Document Administration Fee applies to contracts that are administered by the Division of Construction Management. The fee covers review of the Owner/Architect Agreement and Construction Contract along with related amendments, change orders, service invoices, and pay requests.

(a) Payment must be received before the associated contract is fully executed. The total fee is ¼% of the Construction Cost and it is paid in the following 2 parts:

(i) ¼% of the Project Budget for the Owner/Architect Agreement

(ii) ¼% of the Construction Cost for the Construction Contract.

(5) Additional Fees:

(a) If more than one revised final submittal Final Plan Submittal is required, an additional fee shall be required for each additional revised final submittal. The This additional fee shall be equal to the lesser of the following: 15% of the total fee Basic Plan Review Fee or \$2000. The time restrictions and conditions which apply to routine submittals shall apply to additional submittals.

(b) If the contractor schedules an inspection and it is determined by the Building Commission Division of Construction Management Inspector on site that the contractor ~~is not ready for the scheduled inspection~~ has not met required benchmarks or the inspection is cancelled without 48-hours' notice, the Building Commission Division of Construction Management shall require an additional fee of \$1500. ~~The~~ This additional inspection fee shall be applied to each additional inspection that is required to be rescheduled.

~~(c) If additional drawings for change orders or addendum are submitted after approval as part of a larger project, the additional fees shall be assessed at the completion of the contract based on the actual construction contract cost.~~

(c) Changes to plans for rebid or a significant revision in the scope of work may incur an additional fee, up to the amount of the Basic Plan Review Fee, based on the reviewers' evaluation of the extent of the changes reviewed.

(d) Projects owned and locally funded by municipality and county governments must be submitted for a review for compliance with the current ADA Standards for Accessible Design. The additional fee for this service is 50% of the Basic Plan Review Fee, with a maximum of \$500.00. If more than one revised Final Plan Submittal is required, the fee for each additional review will be 15% of the Basic Plan Review Fee.

(e) In addition to the Schematic, Preliminary, and Final Review Submittals, the Owner may request an optional 65% Intermediate Review to include all systems of the project at a point that is less than 100% complete. The additional fee for this review will be 65% of the Basic Plan Review Fee.

(f) The Basic Contract Document Administration Fee includes review of the original submitted document and one revision. When more than one revision is required, an additional fee of \$200 will be charged to the design professional for each additional document submittal until the document is executed.

**Author:** Frank Barnes

**Statutory Authority:** Code of Ala. 1975, §41-4-400(a)(7).

**History:** **New Rule:** Filed October 27, 1994; effective

December 1, 1994. **Repealed:** Filed October 12, 1995; effective

November 16, 1995. **New Rule:** Filed August 7, 2014; effective

September 11, 2014. **Amended:** Filed September 19, 2019;

effective \_\_\_\_\_.

#### 355-16-1-.04 Payment of Fees.

(1) ~~Final Submittal Approval~~ The balance of the Basic

Plan Review Fee payment shall be accompanied by the ~~"Final Submittal Approval Plan Review Fee Worksheet"~~ and a copy of the architect's latest estimated Construction Cost ~~cost of building construction~~. The cost estimate shall be the basis for calculating the estimated ~~total fee~~ Basic Plan Review Fee on the fee worksheet.

(2) The Basic Permit Fee payment shall be accompanied by the completed "Permit Fee Worksheet" and a copy of the executed ~~e~~Construction ~~e~~Contract. The ~~e~~Construction ~~e~~Contract shall be the basis for calculating the total fee on the fee worksheet.

(3) Fee payments are nonrefundable to the extent that work has been performed by the Division of Construction Management.

(4) ~~Fee payments shall be by check or money order made payable to the "Alabama Building Commission".~~ Fee payments shall be paid by either (i) check or money order made payable to "Alabama Department of Finance-Division of Construction Management," (ii) by an electronic means accepted by the Division of Construction Management, or (iii) an inter-agency transfer. Fees are deemed paid when the funds represented by the payment method are received by or made available to the Division of Construction Management.

(5) ~~Fee Check or money order payments shall be received only at the Alabama Building Commission~~ Division of Construction Management's office in Montgomery.

**Author:** Katherine Lynn and Frank Barnes

**Statutory Authority:** Code of Ala. 1975, §41-4-400(a)(7).

**History:** **New Rule:** Filed October 27, 1994; effective December 1, 1994. **Repealed:** Filed October 12, 1995; effective November 16, 1995. **New Rule:** Filed August 7, 2014; effective September 11, 2014. **Amended:** Filed September 19, 2019; effective \_\_\_\_\_.

### 355-16-1-.05 Final Cost Of The Work-Final Reconciliation of Fees.

(1) Final Reconciliation: The Basic Plan Review Fee, the Basic Permit Fee, and the Basic Contract Document Administration Fee are paid based on the best estimate of the Construction Cost at the time each fee is due. When construction is complete, a Final Reconciliation will recalculate each of these fees using the actual Construction Cost. The Final Reconciliation will determine the amount due from or refunded to the Owner. The Owner has the final responsibility for payment of all fees.

(2) The actual Construction Cost for the final Basic Plan Review Fee shall be adjusted to include the lowest bid on any additive unawarded alternates from the bid tab. The actual Construction Cost for the final Basic Permit Fee and the final Basic Contract Document Administration Fee shall be adjusted for any change orders and for any sales-tax credit received by the Owner.

~~The final cost of the work for the permit fee shall be adjusted for change orders and for sales tax credit received by the Owner. The final cost of the work for plan review fees shall be adjusted to include the lowest bid on additive unawarded alternates. The final adjustment along with a copy of the contractor's final pay request shall be submitted to the Building Commission with the Certificate of Substantial Completion.~~

**Author:** Frank Barnes

**Statutory Authority:** Code of Ala. 1975, §41-4-400(a)(7).

**History:** **New Rule:** Filed October 27, 1994; effective

December 1, 1994. **Repealed:** Filed October 12, 1995; effective

November 16, 1995. **New Rule:** Filed August 7, 2014; effective

September 11, 2014. **Amended:** Filed September 19, 2019; effective \_\_\_\_\_.

**355-16-1-.06 Penalties.** Where work, for which Building Commission Division of Construction Management approval is required, is started or proceeds prior to obtaining said approval, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the Building Commission Division of Construction Management in the execution of the work nor from any other penalties prescribed herein.

**Author:** Frank Barnes

**Statutory Authority:** Code of Ala. 1975, §41-4-400(a)(7).

**History:** **New Rule:** Filed August 7, 2014; effective

September 11, 2014. **Amended:** Filed September 19, 2019; effective \_\_\_\_\_.

~~**355-16-1-.07 Contract Document Administration Fees.** For projects requiring the Division of Construction Management's approval of the contract documents, a contract document administration fee equal to 1/2% of the construction cost will be charged to the Owner.~~

~~**Author:** Frank Barnes~~

~~**Statutory Authority:** Code of Ala. 1975, §41-4-400(a)(7).~~

~~**History:** **New Rule:** Filed August 7, 2014; effective September 11, 2014.~~

~~**Amended:** Filed September 19, 2019; effective \_\_\_\_\_.~~